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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION TWO

B.R., Plaintiff and Respondent, v. C.M., Defendant and Appellant.	E061671 (Super.Ct.Nos. FAMVS1400902 & FAMBS1400032) OPINION

APPEAL from the Superior Court of San Bernardino County. Alexander R. Martinez, Judge. Affirmed.

Law Offices of Valerie Ross and Valerie Ross for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

The trial court issued a domestic violence restraining order, protecting B.R. (Mother) from C.M. (Father). A trial court may issue a restraining order upon

"reasonable proof of a past act or acts of abuse." (Former Fam. Code, § 6300.)[1] Father contends the definition of "abuse" does not include emotional distress, and therefore, the trial court erred by issuing the restraining order. (See Former § 6203 [defining abuse].)[2] We affirm the judgment.

FACTUAL AND PROCEDURAL HISTORY

Mother requested a permanent domestic violence restraining order. Mother and Father are not married, but they share two children. Mother and Father lived together for approximately two years. In the application for a restraining order, Mother alleged (1) she was only allowed to leave the home she shared with Father three times per month; (2) Father said, "I will put a bullet through you if you take the kids out"; and (3) Father called Mother "stupid, moron, cunt, [and] bitch."

At a hearing, Mother explained that Father did not physically prevent her from leaving the home, but she is unable to drive; they lived 15 miles from town, near Barstow; and Father refused to teach her how to drive. Also at the hearing, Mother explained that Father said "[t]hree or four times" that "he would put a bullet through [Mother] or anybody who tries to take his children." Father had last made a "bullet" comment within a "couple months" of the hearing. On one occasion, Mother spoke with Father about text messages he sent to another woman. Father "just bl[e]w up on

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[1] All subsequent statutory references will be to the Family Code, unless otherwise indicated.

[2] The trial court issued the protective order in June 2014. Section 6203 was amended effective January 2015. In this opinion, we apply the former version of the statute, which was effective in 2014.

[Mother]"; he yelled and cussed at her. At that point, Mother "couldn't take it anymore," and contacted a domestic violence helpline.

The trial court found Mother's allegations about being unable to leave the house were not supported by the evidence. The court then said, "As to the other testimony that was also included in the original moving papers about verbal threats of putting a bullet through you if you take the kids, the calling of names, under Family Code Section 6203, the definitions of abuse can include emotional distress, emotion[al] suffering, and disturbing the peace of, and making threatening statements or verbal statements as well.

"Based on the testimony I have heard from everybody, everyone in the case, I find that the moving party has met her burden of preponderance of evidence. I will say not say greatly, but enough [for] the Court to grant the domestic violence restraining order for a period of one year."

DISCUSSION

Father contends the definition of "abuse" does not include emotional distress, and therefore, the trial court erred by issuing the restraining order.

This issue presents a question of law, so we apply the de novo standard of review. (*People v. Moncada* (2012) 210 Cal.App.4th 1124, 1129 [Fourth Dist., Div. Two].)

A trial court may issue a restraining order upon "reasonable proof of a past act or acts of abuse." (Former § 6300.) "Abuse" is defined in section 6203. The statutory definition reflects that "abuse" includes, among other things, "behavior that has been or could be enjoined pursuant to Section 6320." (§ 6203, subd. (d).) Former section 6320

includes behaviors such as making threats and "disturbing the peace of the other party." (Former § 6320, subd. (a).) """[D]isturbing the peace of the other party"' means 'conduct that destroys the mental or emotional calm of the other party.' (*In re Marriage of Nadkarni* (2009) 173 Cal.App.4th 1483, 1497 (*Nadkarni*).)" (*Quing Hui Gou v. Bi Guang Xiao* (2014) 228 Cal.App.4th 812, 817.)

In *Nadkarni*, the appellate court explained, "The ordinary meaning of 'disturb' is '[t]o agitate and destroy (quiet, peace, rest); to break up the quiet, tranquility, or rest (of a person, a country, etc.); to stir up, trouble, disquiet.' [Citation.] 'Peace,' as a condition of the individual, is ordinarily defined as 'freedom from anxiety, disturbance (emotional, mental or spiritual), or inner conflict; calm, tranquility.' [Citation.] Thus, the plain meaning of the phrase 'disturbing the peace of the other party' in section 6320 may be properly understood as conduct that destroys the mental or emotional calm of the other party." (*Nadkarni, supra,* 173 Cal.App.4th at p. 1497.)

The appellate court reasoned that this broad definition of "disturbing the peace" helped to accomplish the purpose of the Domestic Violence Prevention Act (DVPA) because the DVPA has "a 'protective purpose' that [is] 'broad both in its stated intent and its breadth of persons protected.'" (*Nadkarni, supra,* 173 Cal.App.4th at p. 1498.) The alleged emotional distress in *Nadkarni* resulted from alleged unauthorized access to the victim's e-mail accounts and the alleged disclosure of information contained in the accounts. (*Id.* at pp. 1489-1491, 1498-1499.)

The definition set forth in *Nadkarni* has been applied by multiple appellate courts. (*Altafulla v. Ervin* (2015) 238 Cal.App.4th 571 [Fourth Dist., Div. One]; *In re*

Marriage of Evilsizor and Sweeney (2015) 237 Cal.App.4th 1416, 1424 [First Dist., Div. One]; *Quing Hui Gou v. Bi Guang Xiao*, *supra*, 228 Cal.App.4th at p. 817 [First Dist., Div. Three]; *Burquet v. Brumbaugh* (2014) 223 Cal.App.4th 1140, 1145-1147 [Second Dist., Div. Five].) In *Altafulla*, the appellate court equated the *Nadkarni* definition of "disturbing the peace" with "significant emotional distress." (*Altafulla*, at pp. 579-580.)

The *Nadkarni* definition of "disturbing the peace" is well reasoned, and we see no cause to depart from its conclusion. Accordingly, we conclude that emotional distress falls within the broad definition of abuse (§ 6203).

Father does not cite *Nadkarni* or any of the cases that follow it. Instead, Father argues that including emotional distress within the definition of abuse "would clog the already overburden[ed] family court[s]." Statutory interpretation must begin with an analysis of the plain language of the statute, which is where *Nadkarni* began. Only if the plain language is susceptible to more than one meaning may the courts resort to legislative history and policy. (*Sierra Club v. Superior Court* (2013) 57 Cal.4th 157, 166; *Nadkarni*, *supra*, 173 Cal.App.4th at p. 1497.) Father has skipped over the plain language analysis and the legislative history, and proceeded directly to policy. In sum, Father's argument is unpersuasive because (1) Father does not explain why the plain language of the statute is susceptible to more than one meaning, and (2) Father does not address *Nadkarni*.

DISPOSITION

The judgment is affirmed. Appellant is to bear all costs on appeal.

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MILLER
J.

We concur:

McKINSTER
Acting P. J.

KING
J.